IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE FIRST DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

And
THE HON'BLE MR JUSTICE Ch.S.R.K. PRASAD

WRIT PETITION No: 17790 of 2004

Between:

K.Rami Reddy S/o.Venkatappa
R/o.Dimmagudi Village, Peddavaduguru Mandal,

Anantapur District.

..... PETITIONER

AND

1 The Collector and District Magistrate, Anantapur.
2 Principal Secretary for Home Secretariat, Hyderabad.
3 Superintendent, Central Prison, Cherlapalli, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of Habeas Corpus under Article 226 of Constitution of India directing the respondent to produce Kopperla Adinarayana Reddy S/o.Obi Reddy, now detained Central Prison, Cherlapalli before this Hon'ble Court and may be ordered to release forthwith declaring that his detention is illegal and void.

Counsel for the Petitioner: MR.T.PRADYUMNA KUMAR REDDY.

Counsel for the Respondents: THE ADVOCATE GENERAL

The Court made the following:

ORAL ORDER: (By GB.J.)

The detention order issued by the District Collector and Magistrate, Anantapur, is assailing in this Writ Petition. The said order is challenged on the ground that irrelevant grounds have been mentioned in the grounds of detention and therefore, when once the relevant and irrelevant grounds are stated in the grounds of detention, the order gets vitiated in its entirety and therefore, on this ground alone the order is liable to be set aside.

2. Heard the learned Advocate General.

3. In support of the order of detention, the following grounds are mentioned:

> "1. Cr.No.45/2000 u/s 147, 148, 324, 307 r/w. 149 IPC of Peddavadugur PS: On 27-7-2000 at about 6-30 p.m. in Dimmagudi (V) where in you and 10 others of Dimmagudi (V) formed yourselves into an unlawfully assembly armed with deadly weapons way laid and attacked the Makireddy Lakshminarayana Reddy S/o. Veera Reddy, age 42 yrs of Dimmagudi (v) and hacked him with sickles all over the body, with intent end him while he along with his brother were going to their house from Peerla Chavidi and this is due to refuse of Rs.50,000/- as demanded by you. You were arrested on 31-7-2001 and were sent for remand and later you were released on bail. Case is PT vide SC No.41/01 on the file of ASJ, Gooty.
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> 2. Cr.No.41/01 u/s 354 IPC r/w 34 IPC of Peddavadurugn PS: On 3-5-2001 at about 10-30 p.m. in Dimmagudi (v) where in you beat the Makireddy Sreedevi,

25 yrs with hands and legs and torn her blouse outraged her modesty due to faction. You were arrested on 26-5-2001 and sent for remand and later released on bail. Case is PT vide SC.No.482/02 on the file of ASJ, Gooty.

3. Cr.No.23/02 u/s 160 IPC of Peddavaduguru PS: On 24-4-2002 at about 11 a.m. at Dimmagudi (V) you and your 20 followers hurling stones against other party in a public place causing annoyance and public peace and tranquility due to arson took place on the same day in which 3 hayrick yard were guttered to fire belonging to K.P.Anjaneyulu. You were arrested and produced before the Hon'ble Court, Gooty and convicted vide STC No.62/02.

4. Cr.No.67/03 u/s 160 IPC of Peddavadurugu PS: On 25-12-2003 at 1-30 p.m. at 17th distributory under second small canal of Peddavadugur mandal you and 5 others of Dimmagudi and Peddavadugur villages formed yourselves as a group and quarreled with other group for distribution of water. You're self and your followers abused and coupled with each other. You were arrested and case was PT vide STC No.19/04 in the court of JFCM, Gooty.

5. Cr.No.69/0 u/s 147, 148, 452, 436 r/w 149 IPC & Sec. 3 & 5 of ES Act of Peddavaduguru PS: On 26-12-2003 at about 6-30 p.m. at Dimmagudi (v) you and your followers of Dimmagudi (v) formed into an unlawful assembly armed with deadly weapons and country made bombs and attacked the house of the complainant Sreedevi and Lakshmi Devi, hurled bombs in front of their houses damaged the household articles and set fire to the food grains, cloths etc., and also set fire to the jeep of M. Pratapa Reddy who is an opposition faction leader of that village. You were arrested on 7-1-2004 and sent for remand. Later released on bail. Case is under investigation."

4. It is the contention of the learned counsel for the petitioner that ground No.3 is an offence punishable under Chapter VIII of I.P.C., but what is contained in the definition of 'Goonda' is that the offence should fall either under chapter XVI or Chapter XVII or Chapter XXII. Therefore, when once the offence is out of those three chapters, the grounds of detention are to be declared as irrelevant. This issue was also considered by this Court in W.P.Nos.18376 and 18263 of 2004, dated 29.10.2004. After considering this aspect carefully we find that the third ground is irrelevant and extraneous to the order of detention. Accordingly the detention order is quashed.

5. In the result, the Writ Petition is allowed and the impugned order of detention passed by the 1st respondent is hereby quashed. The detenu shall be set at liberty forthwith, if not required in any other crime.

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01-11-2004

ES

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Collector and District Magistrate, Anantapur.
2 The Principal Secretary for Home Secretariat, Hyderabad.
3 The Superintendent, Central Prison, Cherlapalli, Hyderabad.

4. 2 CCs to the Advocate General, High Court Buildings, Hyderabad (OUT).

5. 2 C.D. copies.